

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY CURTIS, individually and as
Personal Representative of the Estate of
ARIANA CURTIS, deceased,

Plaintiff,

Case No. 05-70261
HON. AVERN COHN

-v-

WMK, INC., d/b/a MOBILITY WORKS,
a foreign corporation,

Defendant.

JULES B. OLSMAN (P28958)
WOLFGANG MUELLER (P43728)
Attorney for Plaintiff
2684 W. 11 Mile Road
Berkley, MI 48072
248-591-2300

BRIAN D. EINHORN (P13130)
KEVIN MOLOUGHNEY (P49039)
Attorney for Defendant WMK, Inc.
4000 Town Center, Ste. 909
Southfield, MI 48075
248-355-4141

**MOTION TO APPROVE SETTLEMENT OF CLAIM FOR WRONGFUL
DEATH AND MOTION TO ALLOW DISTRIBUTION OF PROCEEDS**

Plaintiff, Jeffrey Curtis, Personal Representative of the Estate of Ariana Curtis, deceased,
by and through his attorneys, Olsman Mueller, P.C., moves this Honorable Court for approval of
a wrongful death claim arising out of the May 30, 2004, drowning death of Ariana Curtis. In
support of his motion, Plaintiff states the following:

1. The instant lawsuit arises out of the drowning death of Ariana Curtis on May 30,
2004, when her 1996 Pontiac Grand Am, equipped with a left foot accelerator pedal assembly
that was installed by Defendant, WMK, Inc., d/b/a Mobility Products, plunged into Lake St. Clair
while she took it for a drive down the street to test the left foot accelerator pedal assembly. As

Ms. Curtis attempted to turn around in a neighbor's driveway, she inadvertently depressed both the left foot accelerator pedal and brake pedal simultaneously, as a result of the allegedly improper installation of the left foot accelerator pedal assembly. Her vehicle crashed into the side of her neighbor's house and continued between two houses before driving over a neighbor's dock and plunging into Lake St. Clair. Before her frantic neighbors were able to rescue her, the vehicle disappeared under water and Mrs. Curtis drowned.

2. Plaintiff alleged that Defendant, WMK Inc., d/b/a Mobility Works, negligently installed the LFAP in Mrs. Curtis' vehicle.

3. The parties hereto have entered into a confidential agreement to settle this case. The amount of the settlement will be made known to the Court at the time of the hearing. The parties seek this Court's approval for the settlement of this action.

4. Counsel for Plaintiff have expended costs which are detailed in the Confidential Settlement Breakdown. Attorney fees are also stated in the Confidential Settlement Breakdown which will be provided to the Court at the time of the hearing.

5. The net sum to be paid to Jeffrey Curtis, Personal Representative of the Estate of Ariana Curtis, as well as the minor children, is likewise stated in the Confidential Settlement Breakdown which will be provided to the Court.

6. The parties are of the opinion that the settlement in the instant case is fair, reasonable and adequate.

7. Plaintiff requests that this Honorable Court make specific findings that Ariana Curtis, deceased, did not sustain conscious pain and suffering prior to her death on May 30, 2004.

8. Interested parties in this matter are as follows:

- (a) Jeffrey Curtis (husband)
- (b) Briana Curtis (minor daughter)
- (c) Karen Curtis (minor step-daughter)
- (d) Michelle Curtis (minor step-daughter)

9. The individuals stated above are the only individuals who are eligible to receive funds from this distribution.

Accordingly, Plaintiff respectfully requests that this Honorable Court enter an Order approving the confidential settlement of a wrongful death case and distributing proceeds of same.

Plaintiff requests that this Honorable Court grant the following relief:

- (a) Approve the settlement amount as contained in the Confidential Settlement breakdown;
- (b) Approve costs to the law firm representing Plaintiff in accordance with the Confidential Settlement Breakdown;
- (c) Approve attorney fees in the amount stated in the Confidential Settlement Breakdown;
- (d) Order that no conscious pain and suffering was sustained by Plaintiff's decedent prior to her death on May 30, 2004;
- (e) Order that there be a distribution of proceeds in the instant case in accordance with the proposed settlement breakdown;
- (g) Order that the above-entitled matter be dismissed with prejudice and without costs.

10. A Guardian ad litem, attorney, Patricia Battersby, has been previously appointed by the Court. She will provide a report regarding the adequacy of the distribution to the minor children to the Court prior to the hearing.

Respectfully submitted,

OLSMAN MUELLER, P.C.

s/Wolfgang Mueller

WOLFGANG MUELLER (P43728)

Attorney for Plaintiff

2684 W. 11 Mile Road

Berkley, MI 48072

(248) 591-2300

wmueller@olsmanlaw.com

DATE: January 26, 2007

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EASTERN DISTRICT OF MICHIGAN
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**BRIEF IN SUPPORT OF
MOTION TO APPROVE SETTLEMENT OF CLAIM FOR WRONGFUL
DEATH AND MOTION TO ALLOW DISTRIBUTION OF PROCEEDS**

Plaintiff, requests this Honorable Court enter an order approving the settlement and allowing distribution of proceeds in this wrongful death matter.

Plaintiff states that the settlement is in the best interest of the Estate of Ariana Curtis, deceased, and is fair and reasonable under the circumstances.

ACCORDINGLY, Plaintiff respectfully requests that this Court enter an order approving the settlement of this wrongful death claim and enter an order approving the distribution of proceeds as set forth in the Confidential Settlement statement provided to the Court.

Plaintiff further requests that this Court order that find that Ariana Curtis did not sustain conscious pain and suffering prior to her death.

Plaintiff further requests that this Court enter an order of dismissal with prejudice and without costs for the reason that an amicable settlement has been entered into between the parties.

Respectfully submitted,

OLSMAN MUELLER, P.C.

s/Wolfgang Mueller
WOLFGANG MUELLER (P43728)
Attorney for Plaintiff
2684 W. 11 Mile Road
Berkley, MI 48072
(248) 591-2300
wmueller@olsmanlaw.com

DATE: January 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2007, I electronically filed Plaintiff's Motion to Approve Settlement of Claim for Wrongful Death and Motion to Allow Distribution of Proceeds, Brief in Support and this Certificate of Service, with the Clerk of the Court using the ECF system which will send notification of such filing to the following: **Judge Avern Cohn, Brian D. Einhorn, Esq., and Kevin Moloughney, Esq.**

I further hereby certify that on January 26, 2007, I mailed by United States Postal Service the paper to the following non-ECF participants: **None.**

s/Wolfgang Mueller
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